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**WAR FOOD  
ADMINISTRATION**

h-s. **OFFICE OF MARKETING SERVICES**

*Dairy and Poultry Branch*

Washington 25, D. C.

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**TENTATIVELY APPROVED MARKETING AGREEMENT REGULATING  
THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN  
MILK MARKETING AREA**

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I hereby certify that this document is a true and correct copy of the afore-  
said marketing agreement as tentatively approved on March 30, 1945.

Hearing Clerk  
United States Department  
of Agriculture

Dated: March 30, 1945

Washington, D. C.

## INSTRUCTIONS FOR SIGNING MARKETING AGREEMENT

(Please read carefully before signing)

Handlers of milk who wish to enter into the marketing agreement regulating the handling of milk in the New York metropolitan milk marketing area with the Secretary should fill in and sign in accordance with the following instructions:

1. The agreement should be signed in the space provided for the signer's signature and address in Sec. 927.15 just below the section headed "Signature of parties." The type of business organization which you represent, whether corporation, partnership, or individual, should be indicated with your signature. If your business is organized as a corporation you should be sure to impress the corporate seal at the left of your signature.

2. The record of milk handled during the month of January 1945 should be properly certified as indicated in Sec. 927.14(a).

3. If your business is a corporation the board of directors should pass a resolution, in the form of the "Certificate of Resolution" attached to the end hereof, authorizing the signing of this agreement.

4. In the case of partnerships and other business units the agreement should be signed by persons authorized to represent the same, such authorization to be indicated.

When the above procedure has been completed the agreement should be returned to C. J. Blanford, Referendum Agent, 205 East 42nd Street, New York 17, New York.

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## Marketing Agreement Regulating the Handling of Milk in the New York Metropolitan Milk Marketing Area

The parties hereto, in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, and in accordance with the rules of practice and procedure effective thereunder (7 CFR, Cum. Supp., 900.1 *et seq.*), desire to enter into this marketing agreement, and they hereby agree that the handling of milk in the New York metropolitan milk marketing area (as such area is defined in Sec. 927.1(c) of the order, as amended, regulating the handling of milk in the said marketing area, 7 CFR, Cum. Supp., 927.0 *et seq.*), shall, from the effective date hereof, be in compliance with the terms and conditions hereof.

*First:* The provisions of the order (No. 27), as amended, regulating the handling of milk in the New York metropolitan milk marketing area, issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 (7 CFR, Cum. Supp., 927.0 *et seq.*, 8 F.R. 8589, 9862, 9 F.R. 2771, 4735, 10 F.R. 1945), shall be the terms and provisions of this marketing agreement as if set forth in full herein, except that the provisions of the said order, for the purpose of this marketing agreement, shall be modified in the following respects:

### I. Amend Sec. 927.1 as follows:

1. Amend paragraph (b) to read:  
“(b) ‘Secretary’ means the Secretary of Agriculture, or the War Food Administrator, or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.”
2. Add new paragraph (e) to read:  
“(e) ‘Dairy farmer’ means any person who produces milk.”
3. Change paragraph (e) to (f) and amend to read:  
“(f) ‘Producer’ means any dairy farmer whose milk is delivered direct from farm to a pool plant.”
4. Change paragraph (f) to (g) and amend to read:  
“(g) ‘Handler’ means (1) any person who engages in the handling of milk, or products therefrom, which milk was received at a pool plant, or at a plant approved by any health authority as a source of milk for the marketing area, (2) any person who engages in the handling of milk, cultured or flavored milk drinks, cream, or skim milk, all or a portion of which is shipped to, or received in, the marketing area, or (3) any cooperative association of dairy farmers with respect to any milk which it causes to be delivered from dairy farmers to a pool plant of any other handler for the account of such association and for which such association receives payment.”
5. Renumber paragraphs (g), (h), and (i) as paragraphs (k), (l), and (m), respectively, and add new paragraphs (h) and (j) as follows:

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“(h) ‘Plant’ means the land, buildings, surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products as determined by the market administrator pursuant to Sec. 927.2(d)(10).”

“(j) ‘Pool plant’ means any plant which is designated as a pool plant pursuant to Sec. 927.3.”

## II. Amend Sec. 927.2 as follows:

### 1. Change paragraph (c) to read:

“(c) *Powers.* The market administrator shall have the following powers:

- (1) To administer the terms and provisions hereof;
  - (2) To make rules and regulations to effectuate the terms and provisions hereof; and
  - (3) To receive, investigate, and report to the Secretary complaints of violations hereof.”
2. Change subparagraph (d) (5) by changing the first section reference from “927.5(a)” to “927.6” and the second section reference from “927.7” to “927.8.”
  3. Change subparagraph (d) (8) by changing the section reference from “927.8” to “927.9.”
  4. Change subparagraph (d) (10) by changing the last sentence thereof to read: “Such determination shall be ruling for all purposes hereunder, and any revision in the determination of which handlers have been notified shall be effective not earlier than the date of notice to handlers of such revised determination.”
  5. Change subparagraph (e) (1) by changing the words “Class I” to “Class I-A,” and the section reference from “927.4(a)” to “927.5(a).”
  6. Change subparagraph (e) (2) to read:  
“(2) Not later than the 5th day of each month, the prices for all other classes, pursuant to 927.5(a), and the differentials, pursuant to 927.5(b) and 927.7(c), in effect for the preceding month; and”.
  7. Change subparagraph (e) (3) by changing the section reference from “927.6(b)” to “927.7(b).”

## III. Add a new Sec. 927.3 as follows:

“Sec. 927.3 *Pool plants.* A plant shall be designated as a pool plant pursuant to either (a) or (b) of this section.

“(a) *Reserve plants.* (1) *Carryover designation.* Any plant for which the report of milk received from dairy farmers was used in the computation of the uniform price for November 1944 is hereby designated as a pool plant from the effective date hereof until such



designation is cancelled pursuant to (4) of this paragraph: *Provided*, That the designation of any such plant which, on the effective date hereof, is not approved as a source of milk by a health authority in the marketing area, shall be cancelled as of the effective date hereof upon receipt by the market administrator, within 15 days of such effective date, of an application from the person operating such plant for such cancellation.

“(2) *Designation upon application.* (i) *Eligible applicants.* Any person who operates a plant which is located in New York State, Vermont, Massachusetts, Connecticut, New Jersey, or Pennsylvania and which is either approved as a source of milk by a health authority in the marketing area at the time of application and under the sanitary supervision of such authority, or was a pool plant during the preceding October, November, and December, may apply to the Secretary prior to July 1 of any year to have such plant designated as a pool plant: *Provided*, That if 50 percent or more of the dairy farmers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant but for which milk such association receives payment, an application must be made by such cooperative association as well as by the person operating the plant. Applications shall be addressed to the Secretary and filed at the office of the market administrator.

“(ii) *Designation.* (a) Any plant for which an application has been made pursuant to (2) (i) of this paragraph shall be designated as a pool plant upon determination by the Secretary that the requirements of (3) of this paragraph are being met. Such designation shall be effective as of August 1 following the date of application and until cancelled pursuant to (4) of this paragraph.

“(b) If, based upon the information contained in an application filed pursuant to (2) (i) of this paragraph, the Secretary determines that the requirements of (3) of this paragraph are not being met, the applicant or applicants shall be so notified. Within 15 days after receipt of such notice, the applicant or applicants may submit additional information and request further consideration.

“(c) Prior to the issuance of the determination of the Secretary, an application may be withdrawn by written request of the applicant or applicants. In the event that no determination is made by the Secretary prior to August 1st, the effective date of the designation, upon written request of the applicant or applicants prior to the issuance of a determination, shall be deferred until the first of the month following the date of such determination. If the application is not so withdrawn, or the effective date of designation is not so deferred, the plant shall be treated as a pool plant as of August 1st: *Provided*, That all payments into or out of the producer-settlement fund (except such payments which are made on the basis of operations during a month in which the plant meets the requirements of (b) of this section) shall be held in reserve by the market administrator until a determination is made.

“(3) *Requirements.* In order to qualify as a pool plant pursuant to this paragraph, the person operating the plant shall meet each of the following requirements: (i) be willing to ship in the form of milk to the marketing area, milk received at the plant from dairy farmers; (ii) keep such control over the sanitary conditions under which milk received at the plant is produced and handled, that the plant can meet the requirements of a source of milk for the marketing area: *Provided*, That approval by a health authority of the plant as a source of milk for the marketing area shall constitute sufficient evidence that this requirement is being met even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant; and (iii) have no commitments for disposition of milk that prevent him from utilizing milk as set forth in (4) (iv) of this paragraph.

“(4) *Suspension and cancellation of designation.* The designation of a pool plant pursuant to this paragraph may be suspended or cancelled under any of the following provisions:

“(i) The designation shall be cancelled upon application to the market administrator by the handler operating the plant effective at any time during the months of April through July of any year but not sooner than 30 days after receipt of such application: *Provided*, That such applications for cancellation shall be accompanied by proof that the handler, if not a cooperative association qualified pursuant to Sec. 927.8(d), has notified any qualified cooperative association which has any members who deliver milk to such plant, and has notified individually all producers delivering to such plant who are not members of such qualified cooperative association, of his intention to make such application: *Provided, further*, That if 50 percent or more of the producers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant, but for which milk such association receives payment, an application must be made by such cooperative association as well as by the handler operating the plant.

“(ii) The designation of any plant which on June 15 of any year is not approved by a health authority as a source of milk for the marketing area shall be automatically cancelled effective on August 1 of such year unless the absence of such approval is a temporary condition covering a period of not more than 15 days. This provision does not prevent a handler from applying, pursuant to (2) of this paragraph, for a new designation effective on August 1 of the same year.

“(iii) The designation of any plant shall be suspended, effective no sooner than 10 days nor later than 20 days after the date of mailing of notice, by registered letter, to the handler, whenever the market administrator, subject to the limitations set forth in (iv) of this subparagraph, finds on the basis of available information that the handler operating the plant is not meeting the re-



quirements set forth in (3) of this paragraph: *Provided*, That if the handler operating the plant is not a cooperative association qualified pursuant to Sec. 927.8(d), the market administrator shall also notify any qualified cooperative association which has any members who deliver milk to such plant, and shall notify individually all producers delivering to such plant who are not members of such qualified cooperative association, of such suspension of designation.

“(a) In the case of the suspension, pursuant to (4) of this paragraph, of the designation of one or more plants for failure to meet the requirements of (3)(i) or (3)(iii) of this paragraph, the handler operating such plant may select, prior to the effective date of such suspension, some other pool plant or plants to be substituted for the plant or plants suspended if, during the preceding month, the quantity of milk received from producers at such substituted plant or plants was not less than the quantity of milk received from producers at the suspended plant or plants. The handler may also select the order in which plant designations are to be cancelled in the event of a later determination by the Secretary cancelling the designation of some but not all of the plants suspended.

“(b) Not later than 10 days after the effective date of suspension of designation, pursuant to (4) of this paragraph, the handler operating the plant may apply to the Secretary for a review. If the handler fails to so apply for such review, the designation of the plant as a pool plant shall be cancelled as of the effective date of the suspension. If the handler does so apply, the Secretary shall, after review, either determine that the requirements set forth in (3) of this paragraph have been met and order the suspension revoked, or determine that such requirements have not been met and order the designation cancelled as of the effective date of the suspension: *Provided*, That, if the Secretary has made no determination within 2 months after the end of the month in which the suspension was made effective, but later orders the designation cancelled, such cancellation shall be effective as of the first of the month following the date of such determination.

“(c) Beginning with the effective date of a suspension pursuant to (4) of this paragraph, and until the Secretary has either ordered the designation cancelled or ordered the suspension revoked, the plant shall be treated as a pool plant: *Provided*, That all payments into or out of the producer-settlement fund (except such payments on the basis of operations during a month in which the plant meets the requirements of (b) of this section), shall be held in reserve by the market administrator until an order is issued by the Secretary, but not longer than 2 months after the end of the month in which the suspension was made effective.

“(iv) Suspension for failure to meet the requirements of (3)(i) of this paragraph shall be made effective only as of a date in the months of August through December, or during a month for which the Secretary has declared an emergency to exist in the supplying

of milk to the marketing area. Such suspension, in the absence of a declaration by the Secretary of an emergency, shall be made only after the issuance of a notice by the market administrator to all handlers operating reserve pool plants, that pool plant designations are subject to suspension for failure to meet the requirements of (3) (i) of this paragraph.

“(a) No pool plant designation shall be cancelled for failure to meet the requirements of (3) (i) of this paragraph if the handler operating the plant, during the month in which the suspension by the market administrator was made effective, utilized in Classes I-A, II-A, II-B (except cold storage cream), and I-C ultimately distributed in the special cream area, or in Fairfield County, Connecticut, or in Pennsylvania outside the counties of Allegheny, Beaver, Fayette, Greene, Washington and Westmoreland, at least 75 percent of the total milk he received from producers at all pool plants, or utilized in such manner a percentage of the total milk he received from producers at all pool plants which is not less than the percentage of the total milk received from producers during such month which was reported by all handlers in Classes I-A, I-C, II-A, and II-B (except cold storage cream): *Provided*, That the quantity of Class I-C milk to be used in computing the handler’s percentage utilization shall not exceed 50 percent of the milk received by the handler from producers. The percentage requirement for the utilization of milk in the aforesaid classes for any month for which the Secretary has found and declared that an emergency exists in the supplying of fluid milk to the marketing area shall be established by the Secretary.

“(b) In the event that all milk received from producers at a plant is reported to the market administrator by a cooperative association qualified pursuant to Sec. 927.8(d) and such association pays the producers for such milk, the pool plant designation of such plant shall not be cancelled for failure to meet the requirements of (3) (i) of this paragraph if a percentage, equal to or exceeding the percentage set forth in (4) (iv) (a) of this paragraph as applicable to the handler operating the plant, of all milk reported by such cooperative association is utilized in the manner set forth in (4) (iv) (a) of this paragraph.

“(c) Cancellation of designations for failure to meet the requirements of (3) (i) of this paragraph shall be limited to those plants necessary to result in a utilization in Classes I-A, I-C (except that omitted in the computation set forth in (4) (iv) (a) of this paragraph), II-A, and II-B (except cold storage cream) of milk received at the remaining pool plants operated by the handler, or reported by the cooperative, as the case may be, equal to 75 percent, or such other percentage as the Secretary has established in declaring an emergency.

“(d) Loss of approval by health authorities of a plant as a source of milk for the marketing area may in itself constitute adequate reason for the market administrator to suspend the designation of a plant for failure to meet the requirements of (3) (ii) of this



paragraph, only if the absence of such approval continues for more than 15 days.

“(5) *Plant replacements.* In addition to designations pursuant to (2) of this paragraph, a plant may be designated at any time as a pool plant upon application made by the person operating the plant to the Secretary showing that the plant is a replacement for one or more pool plants operated by him and that substantially all of the dairy farmers delivering milk at the plant previously delivered milk to the pool plant or plants replaced. Upon designation of a plant pursuant to this subparagraph the designation of the plant or plants which it replaced shall be automatically cancelled.

“(6) *Change of operator.* The designation of pool plants pursuant to (a) of this section shall be considered as applicable to the plant as such, and subject to cancellation only pursuant to (4) and (5) of paragraph (a) of this section, regardless of change in the person owning or operating the plant. The market administrator shall be notified, by the handlers involved, of any transfer from one person to another of ownership or operation of a pool plant.

“(b) *Plants shipping Class I-A milk to the marketing area.* For any month a plant from which during such month Class I-A milk, either directly or through other plants, is sold or distributed in or shipped to the marketing area, which quantity of milk during the months of July through March, is equal to more than 25 percent of the milk received directly from dairy farmers, or during the months of April through June is equal to more than 10 percent of the milk received directly from dairy farmers, shall automatically be designated a pool plant: *Provided*, That for the months of April, May, or June no plant shall be a pool plant on this basis, unless at least 60 percent of the milk received from dairy farmers at such plant during the preceding period of October, November, and December was classified in Class I-A and, either directly or through other plants, was sold or distributed in or shipped to the marketing area in the form of milk: *Provided further*, That no plant shall be a pool plant on this basis during the months of January through July, if the designation of the plant as a pool plant was cancelled for failure to meet the requirements of (a) (3) (i) of this section during the preceding year.”

#### IV. Amend Sec. 927.3 as follows:

1. Change the section number from “927.3” to “927.4” and amend the section headnote and paragraph (a) thereof to read:

“Sec. 927.4 *Classification.* (a) *Basis of classification.* All milk, the classification of which is necessary to establish the classification of milk received from producers, and all milk entering the marketing area as milk, skim milk, cultured or flavored milk drinks, cream, or plain condensed milk, shall be classified in accordance with the form in which it is held at, or moved from, the plant at which classification is determined. Such classification shall be subject to the following conditions:



“(1) *Burden of proof.* In establishing the classification of milk received from producers the burden rests upon the handler who received such milk from producers to show that such milk should not be classified as Class I-A, and having established the manufacture of cream, the burden rests upon such handler to show that the milk the butterfat from which was manufactured into cream should not be classified as Class II-A, and that the skim milk resulting from the manufacture of cream, should not be classified as Class V-A. The burden rests upon the handler who receives or distributes in the marketing area, milk, skim milk, cultured or flavored milk drinks, cream, or plain condensed milk, to establish the source of all of his milk or milk products.

“(2) *Period for establishing classification.* A period ending with the last day of the month following the month during which milk was received from dairy farmers shall be allowed for handling such milk as a basis for establishing the classification as other than Class I-A.

“(3) *Plant at which classification is to be determined.* Classification shall be determined at the plant where the milk is received from dairy farmers: *Provided*, That if such milk is shipped in the form of milk, skim milk, cream, or plain condensed milk to another plant or other plants, it shall be classified, subject to the provisions of (i) through (vi) of this subparagraph, at the plant or plants to which it is shipped, and there shall be no limit on the number of interplant movements in the form of milk, skim milk, cream, or plain condensed milk prior to classification, except as set forth in (i) through (vi) of this subparagraph.

“(i) If the shipment is to a plant in the marketing area, milk shipped in the form of milk shall be classified as Class I-A; milk the butterfat from which is shipped in the form of cream shall be classified as Class II-A, and in the form of plain condensed milk as Class II-B, unless such cream or plain condensed milk leaves the plant where first received in the marketing area in the form of frozen desserts or homogenized mixtures in which case the milk shall be classified in the appropriate class or classes for milk utilized in frozen desserts or homogenized mixtures; and skim milk shipped in the form of skim milk shall be classified as Class V-A.

“(ii) Except as provided in (iii), (iv), (v), and (vi) of this subparagraph, if the shipment is in the form of milk, skim milk, cream, or plain condensed milk to a non-pooled plant, the milk, skim milk, or milk the butterfat from which is so shipped, shall be classified in accordance with the form in which it is held at or moved from such non-pooled plant. If butterfat which is shipped as milk to a non-pool plant leaves such plant in the form of cream or plain condensed milk, the milk shall be classified in accordance with the form in which the cream or plain condensed milk is held at or moved from the plant to

which it is shipped, except as provided in (iii), (v), and (vi) of this subparagraph.

“(iii) If the shipment is in the form of milk, cream, or plain condensed milk to a plant at which the handling of milk is regulated by another order issued pursuant to the act, the milk or the milk the butterfat from which is so shipped, and which is not classified as Classes I-A, I-B, I-C, II-A, II-B, or II-C shall be classified as Class II-E if the marketing area pursuant to such order is in New England, and shall be classified as Class II-D if such marketing area is outside New England.

“(iv) If the shipment is in the form of milk shipped more than 65 miles from the plant where received from dairy farmers, to a plant outside New York State, Vermont, New Jersey, or Pennsylvania, or to a plant in the county of Allegheny, Beaver, Fayette, Greene, Washington, or Westmoreland in Pennsylvania, it shall be classified as Classes I-A, I-B, or I-C.

“(v) If the shipment is of cream or plain condensed milk shipped more than 65 miles from the plant where the milk was separated or condensed, to a plant in Maine, New Hampshire, Massachusetts, Rhode Island, or Connecticut, the milk the butterfat from which is so shipped shall be classified as Class II-E unless the cream or plain condensed milk is subsequently moved into the special cream area or the marketing area. This provision shall not apply to the classification of milk received from dairy farmers during April, May, or June.

“(vi) If the shipment is of cream or plain condensed milk shipped more than 65 miles from the plant where the milk was separated or condensed, to a plant outside New England, New York State, New Jersey, or Pennsylvania, or to a plant in the county of Allegheny, Beaver, Fayette, Greene, Washington, or Westmoreland in Pennsylvania, milk the butterfat from which is so shipped shall be classified as Class II-D unless the cream or plain condensed milk is subsequently moved into the special cream area or the marketing area. This provision shall not apply to the classification of milk received from dairy farmers during April, May, or June if such classification is based on cream or plain condensed milk shipped to a plant in Ohio, Maryland, Delaware, or Pennsylvania.

“(4) *Plant loss.* Allowances for plant loss, not to exceed 5 percent of the butterfat in the product resulting from any specific plant operation, which plant loss may be classified the same as the milk equivalent of the butterfat in the product, shall be determined by the market administrator pursuant to (b) of this section.

“(5) *Accounting procedure.* The accounting procedure for classifying milk pursuant to this section, including the conversion factors to be used in the absence of specific weights and tests, and the specific definitions of products included in each class, shall be set up by the market administrator pursuant



to (b) of this section. Such accounting procedure shall be in accordance with the following general principles:

“(i) Milk, cream, or skim milk received from pool plants or from producers shall be assigned as far as possible to Class I-A, Class II-A, or Class V-A, unless such classification is based on some product leaving or on hand at the plant in some form other than milk, cream, skim milk, or other than cultured or flavored milk drinks shipped to or distributed in the marketing area.

“(ii) If milk, cream, plain condensed milk, or skim milk is received at a plant from producers or from pool plants and in like form from dairy farmers not producers or from non-pool plants, the total milk equivalent of such products from producers and pool plants, and the total milk or milk equivalent from dairy farmers not producers and non-pool plants shall be assigned pro rata to the total classification of all such milk or milk equivalent after the assignment in accordance with (i) of this subparagraph.

“(iii) The milk received from producers which is eliminated from the computation of the handler’s net pool obligation pursuant to Sec. 927.7 shall be assigned pro rata to the total classification of all milk from producers and pool plants.”

2. Add a new paragraph (b) as follows:

“(b) *Rules and regulations.* The rules and regulations to effectuate the terms and provisions of this section shall be made, and may from time to time be amended by the market administrator in accordance with the procedure set forth in this paragraph: *Provided*, That prior to the effective date of the first rules and regulations issued hereunder the market administrator may issue temporary rules and regulations without regard to the following procedure, and at any time upon a determination by the Secretary that an emergency exists which requires the immediate adoption of rules and regulations, the market administrator may issue, with the approval of the Secretary, temporary rules and regulations without regard to the following procedure: *Provided further*, That a meeting pursuant to (1) of this paragraph, to consider the first rules and regulations, shall be called not later than 30 days after the effective date hereof, and upon written request of any handler a meeting shall be called pursuant to (1) of this paragraph, not later than 30 days after such request, to consider rules and regulations to replace any temporary rules and regulations previously issued.

“(1) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator, at which time all interested persons shall have opportunity to be heard. Notice of such meeting shall be given by the market administrator, and a copy of the proposed rules and regulations shall be sent at least 5 days prior to the date of the meeting to all handlers operating pool plants. A steno-



graphic record shall be made at all such meetings and such record shall be public information available for inspection at the office of the market administrator.

“(2) A period of at least 5 days after the meeting held pursuant to (1) of this paragraph shall be allowed for the filing of briefs. Such briefs shall be public information available for inspection at the office of the market administrator.

“(3) Not later than 30 days after a meeting held pursuant to (1) of this paragraph the market administrator shall issue and send to all handlers operating pool plants the tentative rules and regulations or amendments thereto relating to the issues considered at such meeting, or a tentative notice that no rules or regulations or amendments thereto are to be issued prior to further consideration at another meeting. The tentative rules and regulations, or tentative notice, together with copies of the stenographic record and briefs, shall also at the same time be forwarded by the market administrator to the Secretary.

“(4) Not later than 30 days after issuance by the market administrator, the Secretary shall either approve the tentative rules and regulations or tentative notice as issued, or direct the market administrator to reconsider. In which latter event, the market administrator shall within 30 days either issue revised tentative rules and regulations or tentative notice, or call another meeting pursuant to (1) of this paragraph.

“(5) The tentative rules and regulations and amendments thereto or tentative notice issued pursuant to (3) of this paragraph shall be effective as of the first of the month following approval by the Secretary, but not sooner than 10 days after issuance by the market administrator.”

3. Change paragraph “(b)” to “(c)” and in the first sentence of such paragraph change the words “paragraph (a)” to “(a) and (b).”

4. Delete subparagraph (c) (1) and add in lieu thereof the following:

“(1) Class I-A milk shall be all milk, except as provided in (2) and (3) of this paragraph, which leaves a plant as milk, or cultured or flavored milk drinks containing 3.0 percent butterfat or more, and all the milk the classification of which is not established in some other class named in this paragraph.

“(2) Class I-B milk shall be all milk which leaves a plant as milk, or cultured or flavored milk drinks containing 3.0 percent butterfat or more, which has not passed through the marketing area, but which is ultimately distributed in an area regulated by another order of the Secretary.

“(3) Class I-C milk shall be all milk which leaves a plant as milk, or cultured or flavored milk drinks containing 3.0 percent butterfat or more, which has not passed through the market-

ing area, but including milk which was received directly from producers at a plant in the marketing area, and which is ultimately distributed in an area not regulated by an order of the Secretary."

5. Change the number of subparagraph (c) "(2)" to "(4)."
6. Change the number of subparagraph (c) "(3)" to "(5)."  
Change the section reference in such subparagraph from "927.7(j)" to "927.8(j)," and amend that part of such subparagraph preceding the first semicolon to read:  
"(5) Class II-B milk shall be all milk, except as set forth in (7), (8) and (9) of this paragraph, the butterfat from which leaves or is on hand at a plant in the form of plain condensed milk, frozen desserts or homogenized mixtures".
7. Change the number of subparagraph (c) "(4)" to "(6)."
8. Change the number of subparagraph (c) "(5)" to "(7)" and amend such subparagraph to include certain plain condensed milk by changing the subparagraph to read:  
"(7) Class II-D milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream or in the form of plain condensed milk or in the form of frozen desserts or in the form of homogenized mixtures used in frozen desserts, which is delivered to a plant or a purchaser outside the marketing area, outside the special cream area and outside New England: *Provided*, That the cream or the plain condensed milk is not moved to a plant in the marketing area, in the special cream area, or in New England, or delivered to a purchaser in the marketing area, in the special cream area, or in New England: *Provided further*, That the frozen desserts, or the homogenized mixtures used in frozen desserts are not moved to a plant in New York City, or delivered to a purchaser in New York City."
9. Change the number of subparagraph (c) "(6)" to "(8)" and amend such subparagraph to include certain plain condensed milk by changing the subparagraph to read:  
"(8) Class II-E milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream or in the form of plain condensed milk or in the form of frozen desserts or in the form of homogenized mixtures used in frozen desserts, which is delivered to a plant or a purchaser in New England: *Provided*, That the cream or the plain condensed milk is not moved to a plant outside New England or delivered to a purchaser outside New England: *Provided further*, That the frozen desserts or homogenized mixtures used in frozen desserts are not moved to a plant in New York City, or delivered to a purchaser in New York City."
10. Change the number of subparagraph (c) "(7)" to "(9)" and amend such subparagraph to include certain plain condensed milk by changing the subparagraph to read:



“(9) Class II-F milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of plain condensed milk which is delivered to a plant or a purchaser in the special cream area, is not moved as plain condensed milk to a plant in the marketing area or delivered to a purchaser in the marketing area, and the classification of which is not established in some other class; or all milk the butterfat from which leaves or is on hand at a plant in the form of frozen desserts or in the form of homogenized mixtures used in frozen desserts, except as set forth in subparagraphs (7) and (8) of this paragraph, provided the frozen desserts in both instances were moved to a plant or delivered to a purchaser outside New York City and remained outside New York City; or all milk the butterfat from which leaves or is on hand at a plant in the form of cream cheese.”

11. Change the number of subparagraph (c)“(8)” to “(10)”; change the subparagraph references therein from “(7) and (10)” to “(9) and (12),” respectively, and add therein the words “ice cream powder” immediately after the words “malted milk powder.”
12. Change the number of subparagraphs (c)“(9)” and “(10)” to “(11)” and “(12),” respectively.
13. Change the number of subparagraph (c)“(11)” to “(13)” and change the subparagraph reference numbers therein from “(2),” “(3),” “(4),” “(5),” “(6),” “(7),” “(9),” and “(12)” to “(4),” “(5),” “(6),” “(7),” “(8),” “(9),” “(11),” and “(14).”
14. Change the number of subparagraph (c)“(12)” to “(14)” and change the subparagraph reference numbers therein from “(2),” “(3),” “(4),” “(5),” “(6),” “(7),” “(9),” and “(11)” to “(4),” “(5),” “(6),” “(7),” “(8),” “(9),” “(11),” and “(13).”

V. Amend Sec. 927.4 as follows:

1. Change the section number from “927.4” to “927.5.”
2. Amend the second paragraph in the section to read: “The prices for milk classified pursuant to (4), (5), (6), (7), (8), (9), and (11) of Sec. 927.4(c) shall represent the value of the 40 percent cream equivalent of the milk. The value of any excess skim milk in such milk shall be represented by either the Class V-A or the Class V-B price.”
3. Amend that part of subparagraph (a)(1) preceding the table to read:  
“(1) For Class I-A milk the price per hundredweight during each month shall be as set forth in the table in this paragraph:”  
and change the words “Class I price” in the heading of the table to the words “Class I-A price”.
4. Amend subparagraph (a)(3) to read:  
“(3) For Class I-B milk the price shall be the Class I price set



forth in the order regulating the handling of milk in the area on which the classification is based, subject to the butterfat and transportation differentials set forth in such order.”

5. Amend subparagraph (a) (4) to read:  
“(4) For Class I-C milk the price shall be the uniform price computed by the market administrator pursuant to Sec. 927.7 (b) plus 20 cents per hundredweight.”
6. In subparagraph (a) (14) change the words “Class I” to “Class I-A” and change the reference from “927.3 (b) (11)” to “927.4 (c) (13).”
7. Amend paragraph (b) to read:  
“(b) *Butterfat differentials.* The minimum price for Classes I-A and I-C milk shall be plus or minus 4 cents for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent. The minimum price for Class IV-B milk shall be plus or minus, for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent, an amount equal to the price set forth in subparagraph (13) of paragraph (a) of this section, divided by 9.45 and multiplied by 0.23. The minimum price for each of the other classes, except Classes I-B, V-A, and V-B, shall be plus or minus, for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent, an amount equal to the respective prices set forth in paragraph (a) of this section, divided by 35.”
8. Amend paragraph (c) by changing the heading in Column B of the table contained therein from “Classes I and V-A” to “Classes I-A, I-C, and V-A.”

VI. Amend Sec. 927.5 as follows:

1. Change the section number from “927.5” to “927.6” and amend paragraph (a) thereof to read:  
“(a) *Monthly reports.* On or before the 10th day of each month, each handler shall report to the market administrator, for the preceding month, in the manner and on forms prescribed by the market administrator, with respect to milk or milk products received at each of his pool plants, and at each of his plants where milk or milk products subject to payments under Sec. 927.8 (e) were handled, the following:  
“(1) The total quantity of milk and of each milk product, with the average butterfat content thereof, received from dairy farmers, from other plants, from such handler’s own farm, from other handlers, and from other sources;  
“(2) The total quantity of milk and of each milk product moved out of, or on hand at, such plant, the average butterfat content thereof, and the destination of any milk or milk product the classification of which wholly or partially depends upon its destination, moved out of such plant;

“(3) The disposition of milk or milk products at each other plant at which the disposition of any milk or milk product is claimed as the basis of classification, such disposition to be covered by a signed statement of the plant operator if such other plant is not a pool plant;

“(4) The computation pursuant to Sec. 927.7(a) of such handler’s net pool obligation; and

“(5) The computation of the amount of any payments pursuant to Sec. 927.8(e).”

2. Change the section reference number in paragraph (b)(1)(iv) from “927.7” to “927.8.”
3. Change paragraph “(c)” to “(d)” and in subparagraph (3) thereof change the section reference number from “927.7” to “927.8” and in subparagraph (4) change the section references from “927.7(d), (e), and (f)” to “927.8(d) and (f).”
4. Add a new paragraph (c) to read:
 

“(c) *Other reports.* At such time as the market administrator may request, each handler shall report to the market administrator in the manner and on forms prescribed by the market administrator:

“(1) The total quantity of milk and of each milk product received at his non-pool plants, with the average butterfat content thereof, from dairy farmers, from other plants, from such handler’s own farm, from other handlers, and from other sources;

“(2) The total quantity of milk and of each milk product moved out of, or on hand at, his non-pool plants, the average butterfat content thereof, and the destination of any milk or milk product moved out of such plants;

“(3) Information concerning land, buildings, surroundings, facilities, and equipment at any of his plants;

“(4) The current receipts and utilization of milk at each of his pool plants; and

“(5) Such other information as may be necessary for the administration of the provisions hereof.”

VII. Amend Sec. 927.6 as follows:

1. Change the section number from “927.6” to “927.7.”
2. Delete paragraph (a) from the beginning through (a)(5) and add in lieu thereof the following:
 

“Sec. 927.7 *Determination of uniform price.* The uniform price shall be computed in accordance with the provisions set forth in this section. Milk received from farms in Nassau or Suffolk Counties, New York, which farms are not approved for sale of milk in New York City, or received from the handler’s own farm shall not be included in this computation, and such milk



shall be deemed to be excluded by the phrase, "milk received from producers" as such phrase is used in (a) and (b) of this section, in (d) and (g) of section 927.8, and in section 927.9. "(a) *Net pool obligation of handlers.* (1) Determine the classification pursuant to Sec. 927.4 of milk received from producers at each pool plant;

"(2) Subject to adjustment for appropriate differentials pursuant to Sec. 927.5(b) and (c), multiply the Class I-C milk by 20 cents per hundredweight, multiply the remaining milk or skim milk, as the case may be, in each class by the class price and add together the resulting values;"

3. Change the number of subparagraph (a) "(6)" to "(3)" and change the section reference number therein from "927.7(c)" to "927.8(c)."
4. Change the number of subparagraph (a) "(7)" to "(4)" and change the section reference number therein from "927.4(c) (1)" to "927.5(c) (1)."
5. Change the number of subparagraphs (a) "(8)" and "(9)" to "(5)" and "(6)," respectively.
6. Change the first section reference in paragraph (b) from "927.7(g)" to "927.8(g)."
7. Amend paragraph (b) (2) to read:  
"(2) Subtract the total of payments required to be made for such month by Sec. 927.8(d);"
8. Add a new subparagraph (b) (3) to read:  
"(3) Add the total payments required to be made by handlers for such month pursuant to Sec. 927.8(e); and".
9. Change the number of subparagraphs (b) "(3)" and "(4)" to "(4)" and "(5)," respectively.
10. Change the number of subparagraph (b) "(5)" to "(6)" and amend to read:  
"(6) Subtract the Class I-C milk of all handlers whose reports are included in this computation from the total milk received from producers by all such handlers; and."
11. Change the number of subparagraph (b) "(6)" to "(7)" and change the references "(4)" and "(5)" therein to "(5)" and "(6)," respectively.

#### VIII. Amend Sec. 927.7 as follows:

1. Change the section number from "927.7" to "927.8."
2. Change the references in subparagraph (b) (1) from "927.4 (c) (1)" to "927.5(c) (1)."
3. Change the reference in subparagraph (b) (2) from "927.6(a) (8)" to "927.7(a) (5)."



4. Amend paragraph (c) to read:

“(c) *Butterfat differential.* The uniform price shall be plus or minus, as the case may be, for each one-tenth of 1 percent above or below 3.5 percent of average butterfat content of milk delivered by any producer during any month, an amount equivalent to the average of the butterfat differentials determined pursuant to Sec. 927.5(b), for each class, except Class I-B, weighted by the pounds of butterfat in the milk in each such class used in the computation of the uniform price for the preceding month. Such differential shall be computed to the nearest even tenth of a cent.”

5. Add a new paragraph (e) to read:

“(e) *Payments for milk or milk products from other than producer sources.* (1) Payment shall be made by handlers to producers, through the producer-settlement fund, for milk, cultured or flavored milk drinks, cream, plain condensed milk, or skim milk, which milk and milk product meets each of the following provisions: (i) It was derived from milk received at some plant from dairy farmers (other than the handler operating such plant) who are not producers; (ii) it was received at a plant in, or delivered to a purchaser in the marketing area, or was received at a pool plant outside the marketing area and assigned either to shipments to the marketing area of milk, cultured or flavored milk drinks, cream, plain condensed milk, or skim milk, or to plant loss; and (iii) the milk or milk equivalent of the butterfat is classified as Class I-A, Class II-A, or Class II-B, or the skim milk is classified as Class V-A.

“(2) The amount of payment for the products set forth in (1) of this paragraph shall be as follows:

“(i) If the milk, or the milk equivalent of the butterfat, or the skim milk is classified and paid for under another order issued pursuant to the act, the amount of payment shall be any plus amount obtained by subtracting the value of the milk, the milk equivalent of the butterfat, or the skim milk at the class price or prices under such other order from the value computed in accordance with the classification and pricing set forth herein.

“(ii) If the milk or milk product is derived from milk the handling of which is not regulated by another order issued pursuant to the act, the amount of payment shall be as follows: for milk, or for cultured or flavored milk drinks containing 3.0 percent butterfat or more, the difference between the value of such milk or cultured or flavored milk drinks at the Class I-A price in the 201-210 mile zone and the value computed at the Class IV-A and Class V-B prices; for cream, plain condensed milk, or for cultured or flavored milk drinks containing less than 3.0 percent butterfat, the difference between the value of the milk equivalent of such cream, plain condensed milk, or milk drinks at the appropriate class (II-A or II-B) price in the

201-210 mile zone and at the Class IV-A price (milk equivalent in each case to be computed on the basis of milk containing 3.5 percent butterfat); and for skim milk (either as skim milk or in cultured or flavored milk drinks), the difference between the value computed at the Class V-A price in the 201-210 mile zone and the Class V-B price.

“(iii) In the event that the source of such milk or milk product is not revealed, the amount of payment shall be the full value at the class prices in the 201-210 mile zone.

“(3) Payment for any milk or milk product pursuant to this paragraph shall be made only once and shall be made by the appropriate handler as set forth in the following provisions: (i) By the handler first receiving the milk or milk product at a pool plant outside the marketing area; (ii) By the handler operating the plant where the milk or milk product is first received in the marketing area if the milk or milk product is not received at a pool plant outside the marketing area; or (iii) By the handler operating the plant from which the milk or milk product was delivered to a purchaser in the marketing area if such milk or milk product is neither received at a pool plant outside the marketing area nor at a plant in the marketing area.

“(4) Payment pursuant to this paragraph shall be due at the time of filing the reports pursuant to Sec. 927.6(a).”

6. Change the reference in paragraph (f) from “927.3(b)(3)” to “927.4(c)(5).”
7. Amend paragraph (g) by changing in the first sentence the first series of paragraph references therein from “(h) and (j)” to “(e), (h), and (j)” and the second series of paragraph references therein from “(e), (f), and (j)” to “(f) and (j)”, and by changing in the second sentence the words “Class I milk priced pursuant to Sec. 927.4(a)(4)” to the words “Class I-C milk.”

IX. Amend Sec. 927.8 as follows:

1. Change the section number from “927.8” to “927.9” and change the classes listed therein from “I, II-A, and II-B,” to “I-A, I-B, I-C, II-A, and II-B.”

X. Amend Sec. 927.9 as follows:

1. Change the section number from “927.9” to “927.11.”

XI. At the end of Sec. 927.11, add the following new section:

“Sec. 927.12 *Agents*. The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.”



Second: The following provisions shall also be a part of this marketing agreement:

Sec. 927.13 *Counterparts and additional parties.* (a) *Counterparts.* This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument, as if all such signatures were obtained in one original.

(b) *Additional parties.* After this agreement first takes effect, any handler may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

SEC. 927.14 *Record of milk handled and authorization to correct typographical errors.* (a) *Record of milk handled.* The undersigned certifies that he handled during the month of January 1945 ..... hundredweight of milk covered by this agreement and disposed of within the marketing area.

(b) *Authorization to correct typographical errors.* The undersigned hereby authorizes the Chief, Dairy and Poultry Branch, Office of Marketing Services, to correct any typographical errors which may have been made in this marketing agreement.

SEC. 927.15 *Signature of parties.* IN WITNESS WHEREOF, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

.....  
Signature

By .....  
Name Title

Address .....

Attest .....

.....  
Date



CERTIFICATE OF RESOLUTION

(Corporation only)

At a duly convened meeting of the board of directors of.....

..... held at

..... on the ..... day of

..... 1945, the following resolution was adopted:

“RESOLVED, That ..... shall become a party to the marketing agreement regulating the handling of milk in the New York metropolitan milk marketing area, as read and explained to the meeting, and it is further

“RESOLVED, That ..... (title) and ..... (title) be, and hereby are, authorized and directed to sign, execute, and deliver a counterpart of said marketing agreement, attached hereto, to the Secretary.”

I, ....., secretary of ..... do hereby certify that this is a true and correct copy of a resolution adopted at the above-named meeting, as said resolution appears in the minutes thereof.

.....

.....  
Address of firm

SEAL

**TENTATIVE APPROVAL OF MARKETING AGREEMENT  
REGULATING THE HANDLING OF MILK IN THE  
NEW YORK METROPOLITAN MILK MARKETING AREA**

Tentatively approved on this 30th day of March, 1945.

**MARVIN JONES**  
War Food Administrator

